

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

TROY L. PETERS,	:	Case No. 2:22-cv-3259
	:	
Plaintiff,	:	
	:	
vs.	:	District Judge Sarah D. Morrison
	:	Magistrate Judge Caroline H. Gentry
	:	
FRANKLIN CO. SHERIFF	:	
DALLAS BALDWIN, <i>et al.</i> ,	:	
	:	
Defendants.	:	

REPORT AND RECOMMENDATION

Plaintiff filed a motion for leave to proceed *in forma pauperis* in connection with a prisoner civil rights complaint. (Doc. 1). However, plaintiff did not submit a certified copy of his trust fund account statement (or institutional equivalent) with his application to proceed without prepayment of fees. (*See* Doc. 1 at PageID 8). Also, plaintiff did not sign the complaint. (*See* Doc. 1-1 at PageID 14).

On September 9, 2022, the undersigned issued a Deficiency Order directing plaintiff to pay the full filing fee or submit to the Court a completed *in forma pauperis* application and certified copy of plaintiff's prison trust fund account statement (or institutional equivalent) for the preceding six-month period within thirty days. Plaintiff was also required to submit a signed copy of his complaint. (Doc. 2). Plaintiff was advised that failure to comply with the Order would result in the dismissal of this action. (Doc. 2 at PageID 27).

On October 4, 2022, plaintiff partially complied with the Court's Order by submitting a signed copy of his complaint. (Doc. 3-1). However, plaintiff did not submit to the Court a certified copy of his trust fund account statement (or institutional equivalent). Instead, plaintiff

indicated that he had unsuccessfully requested assistance in having his *in forma pauperis* application completed (*see* Doc. 3 at PageID 31) and, on October 24, 2022, requested an extension of time (Doc. 4).

On November 17, 2022, the Court granted plaintiff an additional thirty days to fully comply with the Court's September 9, 2022 Deficiency Order. The Order also directed the prison cashier to release to plaintiff or submit to the Court a certification page (page 8) of the application and affidavit to proceed without prepayment of fees form and/or a certified copy of plaintiff's trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the date of the Order, or to show cause for their failure to do so. (Doc. 5).

On December 7, 2022, the Order was returned to the Court marked "Return to Sender, Not Deliverable as Addressed, Unable to Forward." (Doc. 6). Further, a search of the list of current inmates in the Franklin County Sheriff's Department, Division of Corrections, does not show plaintiff as incarcerated.¹ To date, more than thirty days after the November 17, 2022 Order, plaintiff has failed to inform the Court of his current address or respond to the Court's Deficiency Order.

"District courts have the inherent power to sua sponte dismiss civil actions for want of prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R.R.*, 370 U.S. 626, 630–631 (1962). *See also Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991). Failure of a party to respond to an order of the court warrants invocation of the Court's inherent power. *See* Fed. R. Civ. P. 41(b). *See also Fountain v.*

¹Viewed at:
[https://fcsojmsweb.franklincountyohio.gov/Publicview/\(S\(jffqrdaiasytthatfev5wwrf\)\)/BookingFind.aspx](https://fcsojmsweb.franklincountyohio.gov/Publicview/(S(jffqrdaiasytthatfev5wwrf))/BookingFind.aspx).

Warden, Franklin Med. Ctr., No. 2:13-CV-271, 2013 WL 2468361, at *1 (S.D. Ohio June 7, 2013), *report and recommendation adopted*, No. 2:13-CV-271, 2013 WL 3467057 (S.D. Ohio July 9, 2013) (“A plaintiff’s failure to supply the Court with an updated address subjects the action to dismissal under Federal Rule of Civil Procedure 41(b).”).

Accordingly, this case should be dismissed for plaintiff’s failure to comply with the Court’s November 17, 2022 Order. *In re Alea*, 286 F.3d 378, 382 (6th Cir. 2002).

It is therefore **RECOMMENDED** that this matter be **DISMISSED** for lack of prosecution.

January 26, 2023

/s/ Caroline H. Gentry
CAROLINE H. GENTRY
United States Magistrate Judge